

REMARKS

Claims 1, 4, 6-8, 12, 14, 16, 18-20, 22, 24, 25, 27, 29, 30, 32, 34, 35, 37, 39, and 40-50 are pending in the current application, with claims 41-50 being newly presented for examination by this Amendment. Claims 16, 18-20, 22, 24, 25, 27, 29, 30, 32, 34, 35, 37, 39, and 40 stand allowed, and Applicants thank the Examiner for so noting. Claims 1, 4, 6-8, 12, and 14 currently stand rejected, and claims 1, 16, 18, 19, 20 have been amended. Reconsideration and allowance of all claims in the present application are respectfully requested in light of the preceding amendments and following remarks.

Examiner Interview

Applicants thank Examiner Wendmagegn for his time and consideration in conducting the brief telephonic interview of December 17, 2009. During the interview, Applicants proposed amendments to overcome the claim rejections under § 101. The Examiner agreed that amending the claims to recite a “disc” instead of a recording medium would prevent the claims from reading on a signal, overcoming the rejections under § 101. Applicants have amended the claims in accordance with this agreement. The Examiner further indicated that the double patenting rejections would be withdrawn, due to the provisional nature of those rejections.

Claim Rejections – 35 U.S.C. § 101

Claims 1, 4, 6-8, 12, and 14 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Specifically, the Examiner rejects the phrase “recording medium” as potentially including signals within the claim scope. Applicants note that claims 1, 4, 6-8, 12, and 14 have each been amended to recite a “disc” instead of a recording medium. Because a disc must be a tangible, non-signal storage medium, the claims are directed to a specific machine and thus fall within one of the categories listed in § 101. *See In re Nuijten*, 500 F.3d 1346, 1355-1356 (Fed. Cir. 2007) (recognizing that the term “machine” as used in section § 101 includes a concrete thing, consisting of parts, or of certain devices and combination of devices). In light of the above, Applicants respectfully request that the rejection of claims 1, 4, 6-8, 12, and 14 under 35 U.S.C. § 101 be withdrawn.

Provisional Claim Rejections – Obviousness-type Double Patenting Rejections

Claims 1 and 18 are provisionally rejected under obviousness-type double patenting over co-pending, later-filed application 10/716,629. Initially, Applicants note that these are the only remaining rejections in the instant application, which is the earlier-filed application. In accordance with MPEP § 804(I)(B)(1), the provisional double patenting rejections should be withdrawn and lodged in application 10/716,629. Withdrawal of the rejections under obviousness-type double patenting to claims 1 and 18 is respectfully requested.

New Claims 41-50

Claims 41-50 are all dependent claims newly presented for examination by this Amendment. Claims 41-50 are allowable at least for depending from an allowed or allowable base claim. Allowance of new claims 41-50 is respectfully requested.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1, 4, 6-8, 12, 14, 16, 18-20, 22, 24, 25, 27, 29, 30, 32, 34, 35, 37, 39, and 40-50 in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Ryan Alley at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,
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By



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